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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,491	12/24/2001	Soren Lund Jensen	P/365-351	9327

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OSTROLENK, FABER, GERB & SOFFEN, LLP
Attorneys at Law
1180 Avenue of the Americas
New York, NY 10036-8403

EXAMINER

GROUP, KARL E

ART UNIT

PAPER NUMBER

1755

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2

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1755

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Massol et al and Lakatos et al "Viscosity and Liquidus.....".

Lakatos et al teach compositions which fall squarely within the ranges of the instant claims. See compositions of examples 17-25. The products of identical compositions may not have mutually exclusive properties. In re Spada 15 USPQ2d 1655,1658 (Fed. Cir. 1990).

Massol et al teach fiber compositions which fall within the instant claims, see column 2 lines 19-30.

The claims are considered anticipated or in the alternative the subject matter as a whole would have been obvious to one having ordinary skill in the art at the time of the invention to

Art Unit: 1755

have selected the overlapping portion of the range disclosed by the prior art because overlapping ranges have been held to be a prima facie case of obvious, see *In re Malagari*, 182 U.S.P.Q 549.

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 5,935,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the claims overlap.

6. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 5,932,500. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the claims overlap.

7. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,346,494. Although the

Art Unit: 1755

conflicting claims are not identical, they are not patentably distinct from each other because the scope of the claims overlap.

8. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5,10-14 of U.S. Patent No. 6,156,683. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the claims overlap.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Group whose telephone number is (703)308-3821. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703)308-3823. The fax phone number for this Group is (703)872-9310, for any non-final amendment or communication, and (703)872-9311 for any after-final amendment or communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-0661.

**KARL GROUP
PRIMARY EXAMINER
ART UNIT 1755**

Keg
May 31, 2002